
Residence Lien Restriction and Lien Recovery Fund Act

Attorneys' Fees, Interest, and Costs Recovered from the Residence Lien Recovery Fund



The following highlights statutory provisions related to the recovery of attorneys' fees, interest, and costs from the Residence Lien Recovery Fund (Fund). For more complete information, please review Utah Code Ann. § 38-11-203. The Residence Lien Restriction and Lien Recovery Fund Act (Act) addresses costs and attorneys' fees in other contexts not included in these highlights. For example, the Act limits liability for attorneys' fees and costs if certain conditions are met when a lien claimant files a mechanics' lien or foreclosure action and provides for the award to the state of attorneys' fees and court costs incurred in recovering claims paid from the Fund.

Attorneys' Fees:

- If a judgment has been obtained with attorneys' fees, notwithstanding the amount stated in a judgment, or if no judgment has been obtained but the contract provides for attorneys' fees, the director shall order payment of attorneys' fees **not to exceed 15% of qualified services**.
- If the judgment does not state a sum for attorneys' fees, no attorneys' fees will be paid by the director.

Interest:

- The director shall order payment of interest on amounts claimed for qualified services based on the **current prime interest rate** at the time payment was due to the date the claim is approved for payment except for delays attributable to the claimant but **not more than 10% per annum**.
- The rate shall be the Prime Lending Rate as published in the Wall Street Journal on the first business day of each calendar year adjusted annually.

Costs:

- The director shall order payment of costs in **the amount stated in the judgment**.
- If the judgment does not state a sum certain for costs, or if no judgment has been obtained, the director shall order payment of **reasonable costs as supported by evidence**.
- The claim application fee as established by the division pursuant to Utah Code Ann. § 38-11-204(1)(b) is not a reimbursable cost.

Selected Legislative History:

- 1994: Residence Lien Restriction and Lien Recovery Fund Act enacted
- 1999: Recovery of interest, costs, and attorneys' fees from the Residence Lien Recovery Fund first addressed in Utah Code Ann. § 38-11-203
- 2003: Rates for interest changed and award of attorneys' fees limited